

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JAMES HOLMES,

Plaintiff,

v.

Case No. 06-C-1033

PHIL KINGSTON, et al.,

Defendants.

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**ORDER**

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This Court denied the Defendants' motion for summary judgment. They have filed an interlocutory appeal asserting qualified immunity. They seek a stay pending the outcome of that appeal, and the Plaintiff has not responded to the stay request. As Defendants note, a stay is the norm in such circumstances because the question of whether a state official should be forced to proceed to trial is precisely the matter being appealed. *See Apostol v. Gallion*, 870 F.2d 1335, 1337-38 (7th Cir. 1989) ("It makes no sense for trial to go forward while the court of appeals cogitates on whether there should be one.") Accordingly, the motion for a stay is **GRANTED**; all further proceedings are **STAYED** pending the outcome of the appeal.

Dated this 9th day of December, 2008.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge